

Gp 28/5

July 28, 1999



To: Commissioner of Patents and Trademarks

Washington, D.C. 20231

Attn: Art Unit 2815 - M. WARREN

From: George O. Saile, Reg. No. 19,572

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#5
8/9/99
MURPB

Subject: | Serial No.: 09/251,183 02/17/99 |

M.S. Lin

TOP LAYERS OF METAL FOR HIGH
PERFORMANCE IC'S

|__Art Group: 2815 M. WARREN

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Restriction or Election
Requirement in the Office Action dated 07/20/99. In that
Office Action, restriction was required to one of two stated

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I hereby certify that this correspondence is being
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, 1999.

George O. Saile, Reg. # 19572
Signature/Date George O. Saile 7/29/99

Inventions under 35 U.S.C. 121. The Inventions stated are Group I - Claims 29-48 to a semiconductor device, classified in Class 257, subclass 758 and Group II - Claims 1-25, 49-79 to a process, classified in Class 438, subclass 1+.

Applicant provisionally elects to be examined the Invention described by the Examiner as Group II - Claims 1-25, 49-79 drawn to a process classified in Class 438, subclass 1+. This election is made with traverse of the requirement under 37 C.F.R.1.143 for the reasons given in the following paragraphs.

The Examiner is respectfully requested to reconsider the Requirement for Restriction given in the Office Action. The Examiner gives the reason for the distinctness of the two inventions as (1) that the process as claimed can be used to make other and materially different products or (2) that the product as claimed can be made by another and materially different process (MPEP 806.05(f)). However, upon reading the product Claims against the process Claims one can readily see that the product Claims are directed to "A semiconductor device structure" and the process Claims are directed to "A method for forming a top metalization system for high performance integrated circuits", it is necessary to obtain claims in both the product and method claim language. The

method Claims necessarily use the product and vice versa. The field of search must necessarily cover both the method class/subclass 438/1+ and products class 257/758 in addition to other related Classes and subclasses to provide a complete and adequate search. The fields of search for the Group I and Group II inventions are clearly and necessarily co-extensive. The Examiner's suggestion that "the device of the group I invention could be made by processes materially different from those of the group II invention, for example, by growing and insulating/passivation layer instead of depositing", is very speculative and really has nothing to do with the Claims as presented in this Patent Application. Further, it is respectfully suggested that these reasons are insufficient to place the additional cost of a second Patent Application upon the Applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

Withdrawal of the Restriction Requirement and the Allowance of the present Patent Application is requested.

Sincerely,



George O. Saile, Reg. #19572